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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,303	11/14/2003	Brian S. McCain	TUC920030126US1 (16991)	2111
46263	7590	07/20/2006	EXAMINER PHAM, THAI V	
SCULLY, SCOTT, MURPHY, & PRESSER 400 GARDEN CITY PL GARDEN CITY, NY 11530			ART UNIT 2194	PAPER NUMBER

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,303

Applicant(s)

MCCAIN, BRIAN S.

Examiner

Thai Van Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/14/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the initial office action based on the application filed on July 17, 2006. Claims 1 – 20 are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 4, 9 – 12, and 15 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by **Britton** (6,279,030).

-- Claims 1 and 9: Britton discloses a method and program stored on a computer readable medium containing instructions executable by a client host in obtaining software, comprising:

- establishing a session with a first server host (page 7 lines 24 – 55);
- downloading first software from the first server host for use during the session to implement a client side of a first version of a first network application (page 7 lines 24 – 55, page 9 lines 33 – 51); and the first software is compatible with software executed at the first server host to implement a server side of the first version of the first network application (page 9, lines 47 – 51).

-- Claims 2 and 10: **Britton** discloses the method and program of Claim 1 and further discloses the downloading comprises downloading the first software from the first server host dynamically, as needed, by the client host (Fig. 4, page 8 lines 23 – 33).

-- Claims 3 and 11: **Britton** discloses the method and program of Claim 1 and further discloses the client host initiates the downloading when it determines that it needs the first software to interact with the first server host (page 7 lines 24 – 55).

-- Claims 4 and 12: **Britton** discloses the method and program of Claim 1 and further discloses the downloading comprises downloading the first software as at least one object using at least one specialized class loader (Fig. 3, page 7 line 59 – page 9 line 33).

-- Claim 15: **Britton** discloses a method for use by a server host in obtaining software, comprising:

- participating in a session established by a first client host (page 7 lines 24 – 55);
- downloading first software from the first client host for use during the session to implement a server side of a first version of a first network application; wherein the first software is compatible with software executed at the first client host to implement a client side of the first version of the first network application (page 7 lines 28 – 35, page 9 lines 33 – 51, page 12, lines 26 – 45).

-- Claim 16: **Britton** discloses the method of Claim 15 and further discloses the downloading comprises downloading the first software from the first client host dynamically, as needed, by the server host (Fig. 4, page 8 lines 23 – 33).

-- Claim 17: **Britton** discloses the method of Claim 15 and further discloses the server host initiates the downloading when it determines that it needs the first software to interact with the first client host (page 9 lines 48 – 54, page 12 lines 26 – 45).

--Claim 18: **Britton** discloses the method of Claim 15 and further discloses the downloading comprises downloading the first software as at least one object using at least one specialized class loader (Fig. 3, page 7 line 59 – page 8 line 33).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 – 8, 13 – 14, and 19 – 20 are rejected under 35 U.S.C. 103(a) as being obvious over **Britton** (6,279,030).

-- Claims 5 and 13: **Britton** discloses the method and program of Claim 1 but does not explicitly disclose that the method further comprising:

- establishing a session with a second server host. However, **Britton** shows in Figure 2 that a client and server hosts communicate by means of a communication

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network. Official Notice is taken that it is old and well known that a plurality of client and server hosts can inter-communicate in a single network as each client/server is uniquely identified by its IP addresses. **Britton** uses a mortgage calculator application in which many client hosts communicate with a server host using different versions of the application as an example to illustrate his invention. Since a plurality of server hosts can also be available for access in a network at the same time, it is desirable for a user to have the ability to simultaneously run a plurality of the mortgage application to compare the mortgage corresponding to different interest rates and mortgage terms for cost analysis. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the client host in the method and program of **Britton** the ability of establishing a session with a second server host;

- and downloading second software from the second server host for use during the session therewith to implement a client side of a second version of the first network application that differs from the first version; and the second software is compatible with software executed at the second server host to implement a server side of the second version of the first network application. In the mortgage calculator application under discussion, the application being run on the different servers can be of different versions of the software. It is necessary for the client host to locally implement all the client versions of the software in order to communicate with the server hosts. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the client host in the method and

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program of **Britton** the ability to download a second software from the second server host to download and implement a client side of a second version of the first network application.

-- Claims 6 and 14: **Britton** discloses the method and program of Claim 5 but does not explicitly disclose the sessions between the client hosts with the first and second server hosts overlap, at least in part. It is, however, obvious that since the session between the client host with the first server host running the first version of the mortgage calculator application and the session between the same client host with the second server host running the second version of the mortgage calculator application are independent upon each other, the two sessions can ~~overlap over~~ partially overlap as long as the necessary computing resources are available. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made recognize that the sessions with the first and second server hosts can overlap, at least in part.

-- Claim 7: **Britton** discloses the method of Claim 1 but does not explicitly disclose that the method further comprising:

- establishing a session with a second server host. However, **Britton** shows in Figure 2 that a client and server hosts communicate by means of a communication network. Official Notice is taken that it is old and well known that a plurality of client and server hosts can inter-communicate in a single network as each client/server is uniquely identified by its IP addresses. **Britton** uses a mortgage calculator application in which

many client hosts communicate with a server host using different versions of the application as an example to illustrate his invention. Since more than one server hosts can also be available for access in a network at the same time, it is desirable for a user to have the ability to access an on-line real estate application to look up homes listed for sale while having the mortgage calculator available to figure out the corresponding cost information. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the client in the method and program of **Britton** the ability of establishing a session with a second server host;

- downloading second software from the second server host for use during the session therewith to implement a client side of a second network application that differs from the first network application; wherein the second software is compatible with software executed at the second server host to implement a server side of the second network application. In the mortgage calculator and on-line real estate applications under discussion, it is necessary for the client host to locally implement both client software sides of the applications in order to communicate with the server hosts. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the client host in the method and program of **Britton** the ability to download and implement the real estate client software from the second server host.

-- Claim 8: **Britton** discloses the method of Claim 1 but does not explicitly disclose that the method further comprising:

- establishing a further session with the first server host. Official Notice is taken that it is old and well known that a server host can host a plurality of applications and similarly, a client host can run a plurality of applications. **Britton** uses a mortgage calculator application in which many client hosts communicate with a server host using different versions of the application as an example to illustrate his invention. It is desirable for a user to have the ability to access an on-line real estate application to look up homes listed for sale while having the mortgage calculator available to figure out the corresponding cost information. When both of these two applications are employed on the same server host, it is necessary for the client host to establish two distinct sessions, one is for the mortgage calculator and the other is for the real estate applications. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the client in the method and program of **Britton** the ability of establishing a further session with the first server host;

- downloading second software from the first server host for use during the further session to implement a client side of a second network application that differs from the first network application; wherein the second software is compatible with software executed at the first server host to implement a server side of the second network application. In the mortgage calculator and on-line real estate applications under discussion, it is necessary for the client host to locally implement both client software sides of the applications in order to communicate with the server host. Thus, it would have been obvious to a person of ordinary skills in the art of software

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development at the time the invention was made to further allow the client host in the method and program of **Britton** the ability to download and implement the real estate client software from the first server host; and

- the session and further session with the first server host overlap, at least in part. It is, however, obvious that since the session between the client host with the first server host running the mortgage calculator application and the further session between the same client host with the same server running the real estate application are independent upon each other, the two session can overlap or partially overlap as long as the necessary computing resources are available. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made recognize that the session and further session with the first server host overlap, at least in part.

-- Claim 19: : **Britton** discloses the method of Claim 15 but does not explicitly disclose that the method further comprising:

- participating in a session established by a second client host. However, **Britton** shows in Figure 2 that a client and server hosts communicate by means of a communication network. Official Notice is taken that it is old and well known that a plurality of client and server hosts can inter-communicate in a single network as each client/server is uniquely identified by its IP addresses. **Britton** uses a mortgage calculator application in which many client hosts communicate with a server host using different versions of the application as an example to illustrate his invention. In the case where the mortgage calculator application running on a second client host is different in

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version than that of the one running on the first client host and the application software is stored on the second client, it is necessary for the server to participate in a session established by the second host to obtain information to ensure interoperability between the server and second client host. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the server in the method and program of **Britton** the ability of participating in a session by a second client host;

- downloading second software from the second client host for use during the session therewith to implement a server side of a second version of the first network application that differs from the first version; wherein the second software is compatible with software executed at the second client host to implement a client side of the second version of the first network application. . In the mortgage calculator application under discussion, it is necessary for the server host to further locally implement the second version of the client software of the application to ensure compatibility with the second client host. Since the server software is stored on the second client host, it is necessary for the server to be able to download the software from the client to locally implement a server side of the second version of the application. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made to further allow the server host in the method and program of **Britton** the ability to download and implement second software from the second client host.

-- Claim 20: **Britton** discloses the method of Claim 15 but does not explicitly disclose the sessions with the first and second client hosts overlap, at least in part. It is, however, obvious that since the first session between the client host with the first server host and the second session between the same client host with the same server are independent upon each other, the two session can overlap or partially overlap as long as computing resources are available. Thus, it would have been obvious to a person of ordinary skills in the art of software development at the time the invention was made recognize that the sessions with the first and second client hosts overlap, at least in part.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- **Gupta** (6,446,109), Sun Microsystems, Inc.: Gupta discloses a computing environment that offers a level of decentralization wherein application server code resident on a remote application server can be distributed to a local server. The local server becomes a local application server for a client.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Van Pham whose telephone number is (571) 270-1064. The examiner can normally be reached on Monday - Thursday, 9am - 5pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on (571) 270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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7/17/2006


James Myhre
Supervisory Patent Examiner